

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

United States of America,

Case No. 3:14CR320

Plaintiff

v.

**ORDER**

Charles McDuffy,

Defendant

This is a criminal case in which the grand jury has charged the defendant with being a felon unlawfully in possession of a firearm. Pending is the defendant's motion to suppress the firearm, which Toledo Vice Narcotics Officers saw and seized during execution of the warrant at issue. (Doc. 15). The motion asserts that officers seizing the weapon did so outside the scope of the warrant and that the underlying affidavit failed to show probable cause for issuance of the warrant.

On the date set for hearing on the motion, counsel for the defendant and government agreed that no hearing was necessary. The defendant's attorney withdrew his objection to the seizure as outside the warrant's scope. He did, though, stand on his contention that the affidavit failed to show probable cause.

I disagree.

There is nothing out of the ordinary with regard to the affidavit and warrant. The affiant, a Vice Narcotics officer with twenty-three years experience, swore that:

- during April, 2014, an informant told the affiant that heroin was being processed and sold at the designated premises;
- he conducted surveillance of the premises and saw several people going to and from the location; on entering, they would leave shortly thereafter;
- this pattern is consistent with drug activity;
- on April 21, 2014, he made arrangements with a CI (Confidential Informant) to enter the premises and undertake to purchase heroin.
- after searching the Confidential Informant, who had provided reliable information in the past, and providing him with funds for the purchase, the Confidential Informant entered the premises;
- a short time later, the Confidential Informant left and went directly to the affiant; and
- he provided the affiant with a substance that field tested positive for heroin.

Disposition of this motion requires no extensive discussion or citation of authority. The evidence the affiant presented to the issuing Toledo Municipal Court Judge indisputably established probable cause to believe that heroin and related instrumentalities routinely associated with drug trafficking (including firearms) were presently to be found on the premises. Issuance of the warrant and its execution three days later were entirely consistent with applicable Fourth Amendment principles and doctrines.

Even were it not indisputably so, the good faith exception would unquestionably apply to sustain the admissibility of the gun in this case.

In light of the foregoing, it is hereby ORDERED THAT the defendant's motion to suppress (Doc. 15) be, and the same hereby is overruled.

So ordered.

/s/ James G. Carr  
Sr. U.S. District Judge